

Mitchell S. Goldberg, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

APOTEX, INC.,

Plaintiff,

v.

CEPHALON INC., et al.,

Defendants.

:
: CIVIL ACTION
:

:
: No. 06-2768-MSG
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:
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:

**MOTION OF DEFENDANT CEPHALON, INC. TO SUBSTITUTE ATTACHMENTS
TO DECLARATION OF MARK A. FORD, ESQUIRE WITH COMPLETE
SETTLEMENT AGREEMENTS BETWEEN CEPHALON, INC.
AND THE GENERIC DEFENDANTS**

Defendant Cephalon, Inc. (“Cephalon”) hereby moves for leave to substitute the attachments to the Declaration of Mark A. Ford, Esquire with copies of the complete Settlement Agreements between Cephalon, Inc. and the Generic Defendants. The grounds for this motion are set forth in the accompanying Memorandum.

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Respectfully submitted,

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Attorneys for Defendant Cephalon, Inc.

On September 11, 2009, the Court entered a Stipulated Protective Order which allowed for the exchange of confidential information among the parties and for filing confidential materials under seal with the Court. (Docket No. 159). On September 24, 2009, the Court entered an Order providing for the production, on or before October 23, 2009, of materials that Cephalon and the Generic Defendants had produced to the Federal Trade Commission. (Docket No. 163). The scope of the September 24, 2009 Order requires production of the complete Settlement Agreements between Cephalon and the Generic Defendants, redacted portions of which were attached to the Ford Declaration filed with the Court on August 31, 2009. Pursuant to that Order, Cephalon will produce copies of the complete Settlement Agreements to counsel for Apotex and transmit copies of each to counsel for Apotex with a service copy of this Motion.

In view of these developments, Cephalon requests leave to substitute the attachments to Declaration of Mark A. Ford, Esquire with copies of the complete Settlement Agreements between Cephalon, Inc. and the Generic Defendants, including the confidential portions that were not part of the Settlement Agreements attached to the August 31, 2009 Ford Declaration, so that the Court will have access to these materials as well as the parties.

Defendant Cephalon respectfully requests that the Court grant the motion and direct the Clerk to file under seal the Declaration of Mark A. Ford, Esquire with Complete Settlement Agreements Between Cephalon, Inc. and the Generic Defendants, which Declaration will be submitted to the Clerk upon entry of the Order.

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Dated: October 6, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the date set forth below the foregoing Motion Of Defendant Cephalon, Inc. for Leave to Substitute Attachments to Declaration of Mark A. Ford, Esquire with Complete Settlement Agreements Between Cephalon, Inc. and the Generic Defendants, Memorandum and proposed Order was electronically filed pursuant to the Court's CM/ECF system, and that the documents are available for downloading and viewing from the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the CM/ECF system.

s/ Nancy J. Gellman
Nancy J. Gellman

Date: October 6, 2009